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**COPY OF PAPERS  
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June 12, 2002

*DAE*  
Patents  
Trademarks  
Copyrights  
Unfair Competition

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re App : Michael VanErdewyk Docket: 2000-0755.ORI  
S.N. : 09/764,175  
Filed : January 17, 2001  
For : CONTROLLED RELEASE DISPENSER

**RECEIVED**  
JUL 15 2002  
OFFICE OF PETITIONS

Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D. C. 20231

Sir:

Enclosed herewith for filing is a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b); a Request to Rescind; and a Statement in Support of Petition.

The Commissioner is authorized to charge any fees or refund any overpayment under 37 C.F.R. 1.16 and 1.17 which may be required by this paper to Deposit Account No. 50-0789.

Sincerely,

*MJB*  
HAUGEN LAW FIRM PLLP

*Mark J. Burns*  
Mark J. Burns

MJB/dls  
Enclosure(s)



#6

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PTO/SB/36 (10-01)

Approved for use through 10/31/2002. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST TO RESCIND PREVIOUS  
NONPUBLICATION REQUEST  
35 U.S.C. 122(b)(2)(B)(ii)

Application Number	09/764,175
Filing Date	January 17, 2001
First Named Inventor	Michael VanErdewyk
Title	CONTROLLED RELEASE DISPENSER
Atty Docket Number	2000-0755.ORI
Group Art Unit	1744
Examiner	

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I hereby **rescind** the previous request that the above-identified application not be published under 35 U.S.C. 122(b).

June 12, 2002

Date

Signature

Mark J. Burns

Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b).

Note: Filing this rescission of a previous nonpublication request is considered the notice of a subsequent foreign or International filing required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) if this rescission is filed no later than forty-five days (45) days after the date of filing of such foreign or international application. See 37 CFR 1.137(f) if a notice of subsequent foreign or International filing required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is **not** filed within forty-five days (45) days after the date of filing of the foreign or international application.

## CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner For Patents, Box PG Pub, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on:

Name (Print/Type)

Denise L. Siede

Signature

Date

June 12, 2002

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(b). The information is used by the public to rescind a previously filed request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that rescission). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



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PTO/SB/64 (10-01)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
2000-0755.ORI

First named inventor: Michael VanErdewyk

Application No.: 09/764,175

Art Unit: 1744

Filed: January 17, 2001

Examiner:

Title: Controlled Release Dispenser

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Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☒ Small entity-fee \$ 640 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of a Request to Rescind under 35 U.S.C. 122(b)(2)(B)(ii) (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

B. The issue fee of \$ \_\_\_\_\_.

- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

07/10/2002

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\$640.00 06/19/2002

DA 500789

## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

June 12, 2002

Date



Signature

Telephone

Number: (612) 339-8300

Mark J. Burns

Typed or printed name

121 S Eighth Street, Suite 1130

Address

Minneapolis, MN 55402

Enclosures: ☐ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: \_\_\_\_\_

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

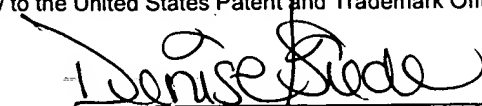
I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

June 12, 2002

Date



Signature

Denise L. Siede

Type or printed name of person signing certificate



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PATENT APPLICATION

Atty. Docket: 2000-0755.ORI

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Statement in Support of Petition Under 37 CFR § 1.137(b)

In addition to the statement made under Section 4 of the enclosed Petition for Revival of an application for patent abandoned under 37 CFR § 1.137(b), the following explanation is provided for further reference regarding the circumstances pertinent to the unintentional abandonment of the patent application referenced herein. As is explained below, the failure to timely submit a Notice of Foreign Filing and a Request to Rescind a Non-Publication Request under 35 U.S.C. § 122(b)(2)(B)(ii-iii) was unintentional, and did not, in any way, occur through a deliberately chosen course of action.

The present application was filed on January 17, 2001, and was accompanied by a Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) for non-publication of the application. At the time this application was filed, Applicants did not intend to file foreign applications based on this U.S. non-provisional application. However, Applicants later decided to file foreign applications, beginning on January 17, 2002.

In light of the above, a notification of such foreign filing to the Patent and Trademark Office under 35 U.S.C. 122(b)(2)(B)(iii) was due on or before March 3, 2002. On June 11, 2002 it was discovered that the system employed by Petitioner's law firm to ensure that such notifications under 35 U.S.C. § 122(b)(2)(B)(ii-iii) are timely filed had failed. As a result, no such rescind notification was timely filed in the Patent and Trademark Office regarding the present application. As such, the failure to timely submit such a notification was unintentional, and the present petition is directed at rectifying the omission.

Upon immediate review of all files potentially affected  
Petitioner's system failure, the instant Petition under 37 CFR §  
1.137(b) was prepared. Therefore, it is my belief and  
understanding that the entire delay in filing the required  
rescind notification from the due date for filing the  
notification until the filing of this grantable Petition was  
unintentional, in that the system relied upon to timely file  
such notifications unknowingly occurred, and remediative action  
was immediately taken upon discovery of such failure.

Respectfully submitted,

HAUGEN LAW FIRM PLLP



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